

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

<b>LONNIE BERNARD DAVIS,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>1:13-CV-639</b>
<b>v.</b>	)	<b>1:92-CR-195-1</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	

**ORDER**

This matter is before the Court on a pleading filed by the petitioner and captioned as a “Motion for Relief from Judgment; FRCP Rule 60(b)(6).” (Doc. 42.<sup>1</sup>) A Recommendation and Order of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on August 15, 2013, was served on the parties. (Doc. 44.) Petitioner filed Objections to the Recommendation on September 3, 2013, (Doc. 46) but soon thereafter filed a Motion asking the Court to (1) “strike” his Objections, and (2) dismiss without prejudice his original Rule 60(b)(6) motion. (Doc. 47.)

At petitioner’s request, he is allowed to withdraw his Objections to the Recommendation. In the absence of objections, the Court need not make a *de novo* review. The Court adopts the Magistrate Judge’s Recommendation. (Doc. 44.)

Petitioner’s request to dismiss without prejudice his “Rule 60(b)(6)” motion is moot. Pursuant to the Recommendation just adopted, Petitioner’s Rule 60(b)(6) motion is being dismissed without prejudice so that Petitioner is already receiving the relief he seeks.

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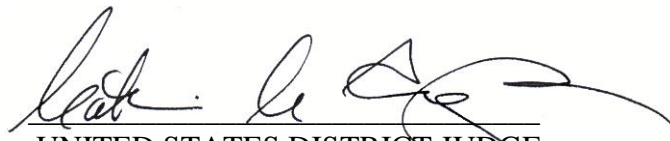
<sup>1</sup> Docket Entries reference the Court docket in Case # 1:92-cr-00195.

**IT IS THEREFORE ORDERED** that:

1. Petitioner's Motion (Doc. 47) is **GRANTED** insofar as Petitioner's Objections (Doc. 46) are hereby deemed withdrawn and **DENIED** as moot in all other respects;
2. Petitioner's "Rule 60(b)(6)" motion (Doc. 42) is construed as an attempt by Petitioner to file a § 2255 action and dismissed without prejudice to Petitioner filing a new action on the proper forms.

A judgment dismissing this action will be entered contemporaneously with this Order.

This 31st day of October, 2013.



UNITED STATES DISTRICT JUDGE